

655 Montgomery Street, Suite 1800 San Francisco, Ca 94111
tel 415.318.1160 fax 415.693.0194

May 13, 2004

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MAY 19 2004

OFFICE OF PETITIONS

Applicant(s): Thomas W. Hagler
Assignee: Advanced Photometrics
Title: Method and Apparatus for Radiation Analysis and Encoder
Application No.: 09/848,614 Filing Date: May 3, 2001
Examiner: Zandra V. Smith Group Art Unit: 2877
Docket No.: SPEC.001US2 Conf. No.: 6010
(formerly M-10489-1P US)

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 13, 2004.


Franklin Dyer

Mail Stop Petitions
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith are the following documents in the above-identified application:

- (1) Return Receipt Postcard;
- (2) This Transmittal Letter (in duplicate);
- (3) Petition for Revival of an Appl. for Patent Abandoned Unintentionally (2 pages);
- (4) Declaration of James S. Hsue Under 37 C.F.R. 1.137(b) (3 pages);
- (5) Copy of Petition for Revival Under 37 CFR 1.137(f), Return Postcard, Check (4 pages)

Payment of the fee for Fee for Petition for Revival Under 37 C.F.R. 1.137(f) of an Application for Patent Considered by the Office to be Abandoned for Failure to Notify the Office of a Foreign or International Filing was previously submitted to the Office dated August 14, 2003.

Payment for the required petition fee for the Petition for Revival of an Application for Patent Application Abandoned Unintentionally Under 37 CFR 1.137(b) is being filed herewith.

Method of payment:

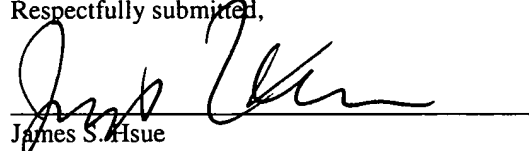
- ☒ Fee for Petition for Revival of an Application for Patent Application Abandoned Unintentionally Under 37 CFR 1.137(b). Applicant claims small entity status. \$665.00

Please charge fee to our Deposit Account No. 502664.

- ☒ Please charge any additional fees required and credit any overpayment to our Deposit Account No. 502664.

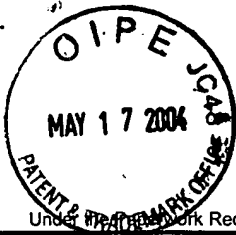
Date: May 13, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James S. Hsue', is written over a horizontal line.

James S. Hsue
Reg. No. 29,545

PARSONS HSUE & DE RUNTZ LLP
655 Montgomery Street, Suite 1800
San Francisco, CA 94111
(415) 318-1160 (main)
(415) 318-1162 (direct)
(415) 693-0194 (fax)



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OFFICE OF PETITIONS

PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

SPEC.001US2

First named inventor: Thomas W. Hagler

Application No.: 09/848,614

Art Unit: 2877

Filed: May 3, 2001

Examiner: Unknown

Title: METHOD AND APPARATUS FOR RADIATION ANALYSIS AND ENCODER

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Repln. Ref: 05/26/2004 SLUANG1 00000067 502664 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
DA: 502664 Name/Number: 09848614 \$650.00 CR
FC: 9201

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Reply (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee and publication fee (if required) of \$ 05/18/2004 SLUANG1 00000067 502664 09848614

- ☐ has been paid previously on 02 FC:2453 665.00 DA
☐ is enclosed herewith.

05/18/2004 SLUANG1 00000067 502664 09848614

01 FC:2201

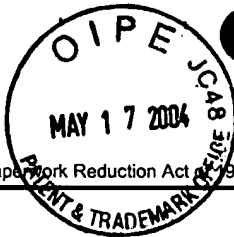
43.00 DP

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to be derived from the invention (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

09848614
05/26/2004 SLUANG1 00000067 502664 09848614
01 FC:2453
Adjustment date: 05/18/2004 SLUANG1 00000067 502664 09848614
02 FC:2453



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PTO/SB/64 (08-03)

Approved for use 07/31/2006. OMB 0651-0031

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

May 13, 2004

Date

Signature

Telephone

Number: 415-318-1162

James S. Hsue

Typed or printed name

655 Montgomery St., Suite

Address

San Francisco, CA 94111

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

May 13, 2004

Date

Signature

Franklin Dyer

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Thomas W. Hagler
Assignee: Advanced Photometrics
Title: Method and Apparatus for Radiation Analysis and Encoder
Application No.: 09/848,614 Filing Date: May 3, 2001
Examiner: Unknown Group Art Unit: 2877
Docket No.: SPEC.001US2 Conf. No.: 6010
(formerly M-10489-1P US)

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Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 14, 2003

Mary S. Briggs
Signature

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR REVIVAL UNDER 37 C.F.R. §1.137(f) OF AN APPLICATION FOR PATENT CONSIDERED BY THE OFFICE TO BE ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING

Dear Sir:

The above-identified application is deemed by the United States Patent and Trademark Office ("Office") to be abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The expiration of the forty-five (45) day period set in 35 U.S.C. §122(b)(2)(B)(iii) for filing such notice, was April 20, 2003.

Pursuant to 37 C.F.R. §1.137(f), Applicant(s) hereby petition(s) for revival of this application under 37 C.F.R. §1.137(b), deemed to be abandoned by the Office.

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing

Attorney Docket No.: SPEC.001US2

Application No.: 09/848,614

pursuant to 35 U.S.C. 122(b)(2)(B)(i). Applicants hereby rescind the previous nonpublication request.

A check for the required petition fee is being filed herewith:

☒ Small entity - fee \$650.00 (37 C.F.R. §1.17(m)). Applicant claims small entity status.

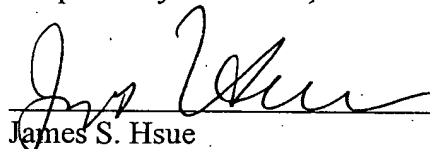
☐ Other than small entity - fee \$1,300.00 (37 C.F.R. §1.17(m)).

The Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 502664.

Notice of Foreign or International Filing (35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c)): Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date(s) of such subsequently-filed foreign or international application(s) is/are as follows: PCT application filed March 6, 2003.

The entire delay in filing such notice of a foreign or international filing from the expiration of the forty-five (45) day period set in 35 U.S.C. §122(b)(2)(B)(iii) until the filing of a grantable petition under 37 C.F.R. §1.137(b) was unintentional.

Respectfully submitted,


James S. Hsue

Attorney for Applicant(s)
Reg. No. 29,545

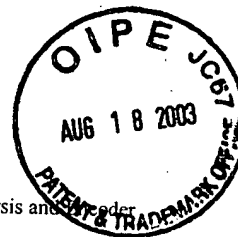
August 14, 2003
Date

PARSONS HSUE & DE RUNTZ LLP
655 Montgomery Street, Suite 1800
San Francisco, CA 94111
(415) 318-1160
(415) 693-0194 fax



COPY

ATTENTION: OFFICE OF PETITIONS
MAIL STOP PETITION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450



Applicants: Thomas W. Hagler
Assignee: Advanced Photometrics
Title: Method and Apparatus for Radiation Analysis and
Application No.: 09/848,614
Filing Date: May 3, 2001
Conf. No.: 6010
Atty Docket No.: SPEC.001US2

ENCLOSED:

1. This Return Receipt Postcard
2. Petition for Revival Under 37 C.F.R. §1.137(f) of an Application for Patent Considered by the Office to be Abandoned for Failure to Notify the Office of a Foreign or International Filing (2 pages - in duplicate)
3. Check for \$650.00

JSH/ksj/meb

Via First Class Mail

Due Date: n/a
Mailing Date: August 14, 2003



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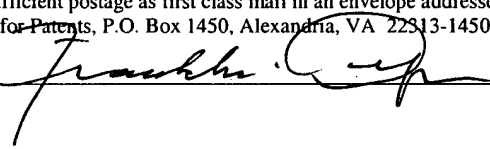
OFFICE OF PETITIONS

Applicant(s): Thomas W. Hagler
Agent: Advanced Photometrics
Title: Method and Apparatus for Radiation Analysis and Encoder
Application No.: 09/848,614 Filing Date: May 3, 2001
Examiner: Unknown Group Art Unit: 2877
Docket No.: SPEC.001US2 Conf. No.: 6010
(formerly M-10489-1P US)

San Francisco, California
May 13, 2004

Certificate of Mailing Under 37 CFR 1.8

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Franklin Dyer

Mail Stop Petitions
COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF JAMES S. HSUE IN SUPPORT
OF PETITION TO APPLY FOR PATENT UNDER 37 C.F.R. §1.137(b)**

Sir/Madam:

I, James S. Hsue, hereby declare as follows:

1. I am Patent Counsel representing Advanced Photometrics, Inc., the owner of the above-identified application. On May 3, 2001, I mailed the above-referenced application to the United States Patent and Trademark Office for filing.
2. Pursuant to a Revocation of Power of Attorney and Appointment of New Attorney signed on March 21, 2002, power of attorney to me was revoked and granted instead to Mr. L. Lester Wallace.
3. Pursuant to a Power of Attorney by Assignee of Entire Interest signed on January 15, 2003, power of attorney to Mr. L. Lester Wallace was revoked and granted back to me.

4. The law firm Skjerven Morrill LLP where I was employed in January 2003 ceased doing business in February 2003, and I together with other attorneys from Skjerven Morrill LLP formed our present firm Parsons Hsue & de Runtz LLP, which required intense efforts on our part for several months.

5. As a result of the "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. §122(b)(2)(B)(ii) - (iv)", dated June 5, 2003, a number of applications handled by our firm were reviewed in connection with a general review of U.S. applications for which non-publication requests have been made and for which corresponding foreign applications have been filed. In August 2003, I filed for the above-identified application a PETITION FOR REVIVAL UNDER 37 C.F.R. §1.137(f) OF AN APPLICATION FOR PATENT CONSIDERED BY THE OFFICE TO BE ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING because of an international filing on March 6, 2003. As a result of the general review referred to above, I discovered that the above-referenced application was abandoned due to a failure to respond to an office action mailed on July 8, 2002 to Mr. Wallace.

6. In telephone conferences with the examiner Ms. Smith and Mr. Wallace in September 2003, I indicated to both the examiner and Mr. Wallace that I needed a copy of the office action so that it could be responded to as a step needed to revive the application. I also understood from Ms. Smith that her opinion was that since a Petition for Revival had already been filed that no further petition would be necessary. However, Ms. Smith indicated that she would check with a supervisor on this issue. I requested a copy of the office action, but had not received a copy of any office action until January 2004.

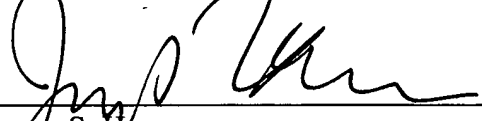
7. Upon my review of the office action in January 2004, on its face, the action listed Serial No. 09/844,861 by applicant Padrigaru et al. Since this did not match the serial number and applicant of the above-identified application, I took no action to respond to the action. After a number of attempts, I spoke with Ms. Smith on February 17, 2004, who explained that the wrong serial number and applicant name were listed, but that the office action was the correct one.

8. After the clarification in February 2004 that the office action received in January 2004 was indeed the correct one, applicant and I proceeded to prepare an amendment in response to the office action. This amendment is enclosed herewith.

9. Therefore, I believe that the entire delay in filing the required response until today's date is unintentional.

Date: May 13, 2004

Respectfully submitted,



James S. Hsue
Reg. No. 29,545

PARSONS HSUE & DE RUNTZ LLP
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(415) 318-1162 (direct)
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